**UNITED STATES BANKRUPTCY COURT**
**NORTHERN DISTRICT OF OKLAHOMA**

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| In re<br><br>MAURICE DELL JONES<br>A/K/A MAURICE DALE JONES<br><br>DIANNE F. HOLMES JONES<br><br><br>Debtors. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | <br><br><br><br><br><br><br>Case No. 13-11956-M<br>(Chapter 13) |

**CHAPTER 13 TRUSTEE'S AMENDED MOTION OBJECTING TO AND FOR DISALLOWANCE OF THE MORTGAGE ARREARAGE OF THE BANK OF NEW YORK MELLON TRUST COMPANY/OCWEN LOAN SERVICING, LLC AND NOTICE OF OPPORTUNITY FOR HEARING**

COMES NOW Lonnie D. Eck, Standing Chapter 13 Trustee for the Northern District of Oklahoma, and moves the Court to disallow the mortgage arrearage of the Bank of New York Mellon Trust Company/Ocwen Loan Servicing, LLC, and states:

1. This case is pending as a case under Chapter 13 of the United States Bankruptcy Code, and, movant is Trustee of the estate(s) herein by virtue of his position as Standing Chapter 13 Trustee for this judicial district.

2. On March 12, 2014, the Court entered an Agreed Conditional Order for Relief from the Automatic Stay and Abandonment of Property (the "Order") (Docket No. 34), in response to the Motion for Relief from Automatic Stay and Abandonment of Property and Brief in Support Thereof and Notice of Opportunity for Hearing (the "Motion"), filed by the Bank of New York Mellon Trust Company, National Association fka the Bank of New York Trust Company, N.A. as Successor to JPMorgan Chase Bank, N.A., as Trustee for RAMP 2004-RS11 ("the Bank of New York Mellon") on December 3, 2013 (Docket No. 23).

3. The Order states that the Bank of New York Mellon shall provide to the Debtors a completed Official Form B10 and Attachment A, including the amount, components and computation of the Debtors' pre-petition arrearage. The Order further states that the Bank of New York Mellon shall provide to the Debtors a statement of the last time the Debtors' mortgage payments were current and a history of the Debtors' pre-petition mortgage payments and how those payments were posted, extending back to the last time the Debtors' mortgage payments were current. The Order also states that the Bank of New York Mellon shall provide to the Debtors a statement of the Debtors' current monthly mortgage payment amount, as well as its principal, interest, insurance, and tax components, and a history of the changes to those amounts back to the time the Debtors' mortgage payments were last current.

4. The Order states that upon compliance with the abovementioned requirements, the Bank of New York Mellon was to file a statement with the Court that all required information and documents were provided to the Debtors. Upon such filing, the Debtors would have fourteen days to file a request for hearing with respect to such statement.

5. To date, the Bank of New York Mellon has not filed the required statement of compliance with the Court. Upon information and belief, the Bank of New York Mellon has not provided the Debtors with the information and documentation required by the Order.

6. The confirmed Chapter 13 Plan provides for mortgage arrearage payments to be made by the Trustee to "Ocwen Loan Servicing, LLC, Successor to the Bank of New York Mellon and GMAC Mortgage, LLC." Upon information and belief, Ocwen Loan Servicing, LLC is the current servicer of the Debtors' mortgage. The bar date for claims filed by a nongovernmental unit in this case was December 23, 2013.

7. The Trustee's office contacted Ocwen Loan Servicing, LLC, February 7, 2014, and requested that a proof of claim be filed in this case. No response was received.

8. On April 2, 2014, the Trustee's office contacted Counsel for the Debtors and requested that a proof of claim be filed on behalf of Ocwen Loan Servicing, LLC. Counsel for the Debtors responded that at that time the Debtors had not received any information from the Bank of New York Mellon as required by the Order, so any information included on a proof of claim filed by the Debtors would be unverified estimates.

9. On May 20, 2014, the Trustee's office contacted Ocwen Loan Servicing, LLC, and requested that a proof of claim be filed. The next day an automatic response from Ocwen Loan Servicing, LLC, was received, promising a response within twenty-four hours. No additional response was received.

10. On June 30, 2014, the Trustee's office again contacted Ocwen Loan Servicing, LLC, and requested that a proof of claim be filed. A Bankruptcy Consultant responded on July 1, 2014, stating that the Proof of Claim Filing Team had been contacted and that they would advise the Trustee's office further. No further contact has been received from Ocwen Loan Servicing, LLC.

11. On August 11, 2014, the Trustee contacted Counsel for the Bank of New York Mellon, requesting that a proof of claim be filed, but was told that Ocwen Loan Servicing, LLC, files its own proofs of claims.

12. On August 25, 2014, the Trustee's office again contacted Counsel for the Bank of New York Mellon and requested and update with respect to the status of the information required by the Order. Counsel for the Bank of New York Mellon stated that he would investigate, but to

date no further information has been received. The Trustee's office attempted to follow up on the status of the request on September 9, 2014, but no response was received.

13. The Chapter 13 Trustee takes the position that the mortgage arrearage has been abandoned, and requests the mortgage arrearage be disallowed and that the funds which the Bank of New York Mellon, or Ocwen Loan Servicing, LLC, would have otherwise been paid be released to the other creditors entitled to payment under the Plan. *See*, *e.g.*, *In re Lee*, 189 B.R. 692 (Bankr. M.D. Tenn. 1995). Due to the lack of information provided to the Trustee's office, it is unclear whether the Bank of New York Mellon or Ocwen Loan Servicing, LLC currently holds an interest in the Debtors' mortgage.

14. The FDIC website (http://www3.fdic.gov/idasp/main.asp) does not list Ocwen Loan Servicing, LLC as a federally insured depository institution, but does list the Bank of New York Mellon as a federally insured depository institution.

**NOTICE OF OPPORTUNITY FOR HEARING**

**Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document.** If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Northern District of Oklahoma, 224 South Boulder, Tulsa, Oklahoma 74103 no later than 33 days from the date of filing of this request for relief. You should also mail a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. **The 33 day period includes the three (3) days allowed for mailing provided for in Fed. R. Bankr. P. 9006(f).**

WHEREFORE, Lonnie D. Eck, Standing Chapter 13 Trustee, prays that after notice and opportunity for hearing, under Local Rule 9013-1(B), the Court disallow the mortgage arrearage claim of the Bank of New York Mellon, or Ocwen Loan Servicing, LLC; and, the Chapter 13 Trustee prays for such other and further relief as is just, equitable and proper.

s/ Lacey S. Bryan
Lonnie D. Eck, Standing Chapter 13 Trustee
Lacey S. Bryan, OBA #31501
Office of the Standing Chapter 13 Trustee
Northern District of Oklahoma
PO Box 2038
Tulsa, Oklahoma 74101-2038
Telephone: (918) 599-9901
Fax: (918) 587-0364

**CERTIFICATE OF MAILING**

I, Lacey S. Bryan, hereby certify that on the date the above and foregoing pleading was filed with the Court, a true and correct copy, along with evidence of electronic filing thereof, was mailed, by first-class mail, postage prepaid to each of the following:

Maurice Dell Jones
Dianne F. Holmes Jones
14142 E. 11th Street
Tulsa, OK 74108

Brian W. Huckabee
Huckabee & Huckabee, Inc.
406 South Boulder, Suite 425
Tulsa, OK 74103

The Bank of New York Mellon Trust Company, National Association
Fka the Bank of New York Trust Company, N.A.
As Successor to JPMorgan Chase Bank, N.A.
As Trustee for Ramp 2004-RS11
c/o Robert Hauge
Baer, Timberlake, Coulson & Cates, P.C.
6846 South Canton, Suite 100
Tulsa, OK 74136

Ocwen Loan Servicing, LLC
Attn: Bankruptcy Department
Attn: President/Managing Agent
1100 Virginia Drive, Suite 175
Fort Washington, PA 19034

s/ Lacey S. Bryan
Lacey S. Bryan, OBA #31501

In addition, a true and correct copy of this Amended Motion Objecting and for Disallowance of the Mortgage Arrearage and Notice of Opportunity for Hearing, along with evidence of electronic filing thereof, was mailed, by certified mail to:

The Bank of New York Mellon Trust Company, National Association
Attn: Gerald L. Hassell, Chairman/President
400 South Hope Street
Los Angeles, CA 90071

The Bank of New York Mellon
Attn: Gerald L. Hassell, Chairman/President
One Wall Street
New York, NY 10286

s/ Lacey S. Bryan
Lacey S. Bryan, OBA #31501